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**PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510**

In re Application of :
Paul D. Grayson : **DECISION ON PETITION**
Application No. 09/124,426 :
Filed: July 29, 1998 :
Attorney Docket No. PHB-34.173 :

This is a decision on the Petition To Withdraw Abandonment Under MPEP § 711.03(c), received in the United States Patent and Trademark Office (USPTO) on January 8, 2002. The undersigned became aware of the petition upon receipt of a duplicate copy on August 20, 2004.

The petition is **DISMISSED**.

Petitioner states that the Issue Fee Transmittal (Transmittal) with authorization to charge the Issue Fee to Assignee's Deposit Account was mailed on February 8, 2001.

Petitioner has submitted a copy of the Issue Fee Transmittal, form PTOL-85B, and a copy of a returned postcard, which acknowledges receipt of the Issue Fee on February 12, 2001, by the USPTO, as evidenced by the "Office Date" stamp thereon. MPEP 503 states the following:

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all items listed thereon on the date stamp thereon by the USPTO.

However, there was no method of how the issue fee was to be paid. This should have been done by completing items 4a. and 4b. on the Transmittal.

Petitioner should review the amended rules pertaining to general authorization to pay fees. See 65 FR 54647 September 8, 2000, which states:

As an additional aid to applicants, the rule as proposed has been further amended to include §§ 1.311(b)(1) and (b)(2) that can act as safety mechanisms. Where it is clear that an applicant actually intends to pay the issue fee such as by submitting an incorrect issue fee amount, or completing the issue fee transmittal form provided by the Office with the notice of allowance, a general authorization to pay fee or a specific authorization to pay the issue fee, submitted prior to the mailing of the notice of allowance, will be allowed to act as a payment of the correct issue fee.

Also, MPEP 1306, which states in part:

The payment of the issue fee due may be simplified by using a U.S. Patent and Trademark Office Deposit Account or a credit card payment with form, PTO-2038 for such a fee. See MPEP 509. However, any such payment must be specifically authorized by reference to the "issue fee" or "fees due under 37 CFR 1.18."

Investigation of the application file reveals a general authorization to "Please charge any additional fees which may now or in the future, be required in this application, including extensions of time fees, but excluding the issue fee unless explicitly requested to do so, and credit any overpayment, to Deposit Account No. 14-1270" was provided. Therefore, by excluding the issue fee, there is no previously filed authorization to charge such fee. The holding of abandonment cannot be withdrawn at this time.

Petitioner should consider filing a Petition for Revival Of Abandoned Application under 37 CFR 1.137 (a) or (b).

Telephone inquiries in regards to filing the petition under 37 CFR § 1.137 should be directed to the Office of Petitions at 703-305-9282 or 9285 or correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

Telephone inquiries relating to this decision may be directed to the undersigned in the Office of Patent Publication at 703-305-8380.



Thomas E. Hawkins
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Office of the Director
Office of Patent Publications